

Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
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2016

CHAPTER 326

SENATE BILL 1306

AN ACT

AMENDING SECTION 11-1102, ARIZONA REVISED STATUTES; RELATING TO COUNTY
DEVELOPMENT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-1102, Arizona Revised Statutes, is amended to
3 read:

4 11-1102. County development fees; imposition by counties;
5 infrastructure improvements plan; advisory
6 committee; annual report; limitation on actions;
7 definitions

8 A. ~~If a county has adopted a capital improvements plan, the A county~~
9 ~~may assess development fees within the covered planning area in order to~~
10 ~~offset the capital costs for water, sewer, streets, parks and public safety~~
11 ~~facilities determined by the plan to be necessary for public services~~
12 ~~provided by the county to a development in the planning area.~~ TO THE COUNTY
13 ASSOCIATED WITH PROVIDING NECESSARY PUBLIC SERVICES TO A DEVELOPMENT,
14 INCLUDING THE COSTS OF INFRASTRUCTURE, IMPROVEMENTS, REAL PROPERTY,
15 ENGINEERING AND ARCHITECTURAL SERVICES, FINANCING AND PROFESSIONAL SERVICES
16 REQUIRED FOR THE PREPARATION OR REVISION OF A DEVELOPMENT FEE PURSUANT TO
17 THIS SECTION, INCLUDING THE RELEVANT PORTION OF THE INFRASTRUCTURE
18 IMPROVEMENTS PLAN.

19 B. Development fees assessed under this section are subject to the
20 following requirements:

21 1. Development fees shall result in a beneficial use to the
22 development.

23 2. THE COUNTY SHALL CALCULATE THE DEVELOPMENT FEE BASED ON THE
24 INFRASTRUCTURE IMPROVEMENTS PLAN ADOPTED PURSUANT TO THIS SECTION.

25 3. THE DEVELOPMENT FEES MAY NOT EXCEED A PROPORTIONATE SHARE OF THE
26 COST OF NECESSARY PUBLIC SERVICES, BASED ON SERVICE UNITS, NEEDED TO PROVIDE
27 NECESSARY PUBLIC SERVICES TO THE DEVELOPMENT.

28 4. COSTS FOR NECESSARY PUBLIC SERVICES MADE NECESSARY BY NEW
29 DEVELOPMENT SHALL BE BASED ON THE SAME LEVEL OF SERVICE PROVIDED TO EXISTING
30 DEVELOPMENT IN THE SERVICE AREA AT THE TIME THE INFRASTRUCTURE IMPROVEMENTS
31 PLAN IS ADOPTED.

32 5. DEVELOPMENT FEES MAY NOT BE USED FOR ANY OF THE FOLLOWING:

33 (a) FUNDING A LEVEL OF SERVICE THAT IS HIGHER THAN THE CURRENT LEVEL
34 OF SERVICE PROVIDED TO EXISTING DEVELOPMENT AT THE TIME THE INFRASTRUCTURE
35 IMPROVEMENTS PLAN IS ADOPTED.

36 (b) CONSTRUCTION, ACQUISITION OR EXPANSION OF PUBLIC FACILITIES OR
37 ASSETS OTHER THAN NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS IDENTIFIED
38 IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

39 (c) REPAIR, OPERATION OR MAINTENANCE OF EXISTING OR NEW NECESSARY
40 PUBLIC SERVICES OR FACILITY EXPANSIONS.

41 (d) UPGRADING, UPDATING, EXPANDING, CORRECTING OR REPLACING EXISTING
42 NECESSARY PUBLIC SERVICES TO SERVE EXISTING DEVELOPMENT IN ORDER TO MEET
43 STRICTER SAFETY, EFFICIENCY, ENVIRONMENTAL OR REGULATORY STANDARDS.

1 (e) UPGRADING, UPDATING, EXPANDING, CORRECTING OR REPLACING EXISTING
2 NECESSARY PUBLIC SERVICES TO PROVIDE A HIGHER LEVEL OF SERVICE TO EXISTING
3 DEVELOPMENT.

4 (f) ADMINISTRATIVE, MAINTENANCE OR OPERATING COSTS OF THE COUNTY.

5 6. ANY DEVELOPMENT FOR WHICH DEVELOPMENT FEES HAVE BEEN PAID IS
6 ENTITLED TO THE USE AND BENEFIT OF THE SERVICES FOR WHICH THE DEVELOPMENT
7 FEES WERE IMPOSED AND IS ENTITLED TO RECEIVE IMMEDIATE SERVICE FROM ANY
8 EXISTING FACILITY WITH AVAILABLE CAPACITY TO SERVE THE NEW SERVICE UNITS IF
9 THE AVAILABLE CAPACITY HAS NOT BEEN RESERVED OR PLEDGED IN CONNECTION WITH
10 THE CONSTRUCTION OR FINANCING OF THE FACILITY.

11 7. DEVELOPMENT FEES MAY BE COLLECTED IF ANY OF THE FOLLOWING OCCURS:

12 (a) THE COLLECTION IS MADE TO PAY FOR A NECESSARY PUBLIC SERVICE OR
13 FACILITY EXPANSION THAT IS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN
14 AND THE COUNTY PLANS TO COMPLETE CONSTRUCTION AND HAVE THE SERVICE AVAILABLE
15 WITHIN THE TIME PERIOD ESTABLISHED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN,
16 BUT NOT LONGER THAN THE TIME PERIOD PROVIDED IN SUBSECTION J, PARAGRAPH 3 OF
17 THIS SECTION.

18 (b) THE COUNTY RESERVES CAPACITY IN THE INFRASTRUCTURE IMPROVEMENTS
19 PLAN ADOPTED PURSUANT TO THIS SECTION OR OTHERWISE AGREES TO RESERVE CAPACITY
20 TO SERVE FUTURE DEVELOPMENT.

21 (c) THE COUNTY REQUIRES OR AGREES TO ALLOW THE OWNER OF A DEVELOPMENT
22 TO CONSTRUCT OR FINANCE THE NECESSARY PUBLIC SERVICE OR FACILITY EXPANSION
23 AND ANY OF THE FOLLOWING APPLIES:

24 (i) THE COSTS INCURRED OR MONIES ADVANCED ARE CREDITED AGAINST OR
25 REIMBURSED FROM THE DEVELOPMENT FEES OTHERWISE DUE FROM A DEVELOPMENT. THE
26 AMOUNT OF CREDITS ISSUED SHALL EQUAL THE COSTS IDENTIFIED BY THE COUNTY IN
27 THE INFRASTRUCTURE IMPROVEMENTS PLAN ASSOCIATED WITH THE CONSTRUCTION OF THE
28 NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS. THE COUNTY SHALL ALLOW THE
29 OWNER TO ASSIGN THE CREDITS FROM THE DEVELOPMENT FEES OTHERWISE DUE FROM A
30 DEVELOPMENT AND ANY EXCESS CREDITS TO OTHER DEVELOPMENTS FOR THE SAME
31 CATEGORY OF NECESSARY PUBLIC SERVICES IN THE SAME SERVICE AREA.

32 (ii) THE COUNTY REIMBURSES THE OWNER FOR THOSE COSTS FROM THE
33 DEVELOPMENT FEES PAID FROM ALL DEVELOPMENTS THAT WILL USE THOSE NECESSARY
34 PUBLIC SERVICES OR FACILITY EXPANSIONS. THE COUNTY SHALL ALLOW THE OWNER TO
35 ASSIGN THE REIMBURSEMENT RIGHTS TO OTHER DEVELOPMENTS FOR THE SAME CATEGORY
36 OF NECESSARY PUBLIC SERVICES IN THE SAME SERVICE AREA.

37 8. PROJECTED INTEREST CHARGES AND OTHER FINANCE COSTS MAY BE INCLUDED
38 IN DETERMINING THE AMOUNT OF DEVELOPMENT FEES ONLY IF THE MONIES ARE USED FOR
39 THE PAYMENT OF PRINCIPAL AND INTEREST ON THE PORTION OF THE BONDS, NOTES OR
40 OTHER OBLIGATIONS ISSUED TO FINANCE CONSTRUCTION OF NECESSARY PUBLIC SERVICES
41 OR FACILITY EXPANSIONS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

42 ~~2.~~ 9. Monies received from development fees shall be placed in a
43 separate fund and accounted for separately and may only be used for the
44 purposes authorized by this section. MONIES RECEIVED FROM DEVELOPMENT FEES
45 IDENTIFIED IN AN INFRASTRUCTURE IMPROVEMENTS PLAN ADOPTED OR UPDATED PURSUANT

1 TO SUBSECTION E OF THIS SECTION SHALL BE USED TO PROVIDE THE SAME CATEGORY OF
2 NECESSARY PUBLIC SERVICES OR FACILITIES EXPANSIONS FOR WHICH THE DEVELOPMENT
3 FEE WAS ASSESSED AND FOR THE BENEFIT OF THE SAME SERVICE AREA AS DEFINED IN
4 THE INFRASTRUCTURE IMPROVEMENTS PLAN IN WHICH THE DEVELOPMENT FEES WERE
5 ASSESSED. Interest earned on monies in the separate fund shall be credited to
6 the fund.

7 ~~3-~~ 10. The county shall prescribe the schedule for paying the
8 development fees. BASED ON THE COSTS IDENTIFIED IN THE INFRASTRUCTURE
9 IMPROVEMENTS PLAN, the county shall provide a credit toward the payment of
10 the ~~fee~~ DEVELOPMENT FEES for the required OR AGREED TO dedication of public
11 sites, ~~and improvements~~ AND OTHER NECESSARY PUBLIC SERVICES OR FACILITY
12 EXPANSIONS INCLUDED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN AND FOR WHICH
13 DEVELOPMENT FEES ARE ASSESSED, TO THE EXTENT THE PUBLIC SITES, IMPROVEMENTS
14 AND NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS ARE provided by the
15 developer ~~for which that fee is assessed~~. ON REQUEST OF THE DEVELOPER,
16 INSTEAD OF PROVIDING A CREDIT TOWARD THE PAYMENT OF DEVELOPMENT FEES, THE
17 COUNTY SHALL PROVIDE FOR REIMBURSEMENT FROM THE DEVELOPMENT FEES PAID FROM
18 ALL DEVELOPMENT THAT WILL USE THOSE PUBLIC SITES, IMPROVEMENTS OR NECESSARY
19 PUBLIC SERVICES OR FACILITY EXPANSIONS OF THE ACTUAL COSTS OF THE REQUIRED OR
20 AGREED TO DEDICATION OF PUBLIC SITES, IMPROVEMENTS OR OTHER NECESSARY PUBLIC
21 SERVICES OR FACILITY EXPANSIONS INCLUDED IN THE INFRASTRUCTURE IMPROVEMENTS
22 PLAN AND FOR WHICH DEVELOPMENT FEES ARE ASSESSED, TO THE EXTENT THE PUBLIC
23 SITES, IMPROVEMENTS AND NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS ARE
24 PROVIDED BY THE DEVELOPER. The developer of residential dwelling units shall
25 be required to pay the fees when construction permits for the dwelling units
26 are issued, OR AT A LATER TIME IF SPECIFIED IN THE DEVELOPMENT AGREEMENT
27 PURSUANT TO SECTION 11-1101. IF A DEVELOPMENT AGREEMENT PROVIDES FOR
28 DEVELOPMENT FEES TO BE PAID AT A TIME LATER THAN THE ISSUANCE OF CONSTRUCTION
29 PERMITS, THE DEFERRED DEVELOPMENT FEES SHALL BE PAID NOT LATER THAN FIFTEEN
30 DAYS AFTER THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY. THE DEVELOPMENT
31 AGREEMENT SHALL PROVIDE FOR THE VALUE OF ANY DEFERRED DEVELOPMENT FEES TO BE
32 SUPPORTED BY AN APPROPRIATE SECURITY, INCLUDING A SURETY BOND, LETTER OF
33 CREDIT OR CASH BOND.

34 ~~4. The amount of any development fees must bear a reasonable~~
35 ~~relationship to the burden of capital costs imposed on the county to provide~~
36 ~~additional necessary public services to the development. In determining the~~
37 ~~extent of the burden imposed by the development, the county shall consider,~~
38 ~~among other things, the contribution made or to be made in the future in cash~~
39 ~~by taxes, fees or assessments by the property owner toward the capital costs~~
40 ~~of the necessary public service covered by the development fee.~~

41 11. IF A COUNTY REQUIRES AS A CONDITION OF DEVELOPMENT APPROVAL THE
42 CONSTRUCTION OR IMPROVEMENT OF, CONTRIBUTIONS TO OR DEDICATION OF ANY
43 FACILITIES THAT WERE NOT INCLUDED IN A PREVIOUSLY ADOPTED INFRASTRUCTURE
44 IMPROVEMENTS PLAN, THE COUNTY SHALL CAUSE THE INFRASTRUCTURE IMPROVEMENTS
45 PLAN TO BE AMENDED TO INCLUDE THE FACILITIES AND SHALL PROVIDE A CREDIT

1 TOWARD THE PAYMENT OF DEVELOPMENT FEES FOR THE CONSTRUCTION, IMPROVEMENT,
 2 CONTRIBUTION OR DEDICATION OF THE FACILITIES TO THE EXTENT THAT THE
 3 FACILITIES WILL SUBSTITUTE FOR OR OTHERWISE REDUCE THE NEED FOR OTHER SIMILAR
 4 FACILITIES IN THE INFRASTRUCTURE IMPROVEMENTS PLAN FOR WHICH DEVELOPMENT FEES
 5 WERE ASSESSED. IF A COUNTY REQUIRES AS A CONDITION OF DEVELOPMENT APPROVAL
 6 THE SET ASIDE OF ACTIVE OR PASSIVE OPEN SPACE, THE COUNTY SHALL ISSUE A
 7 CREDIT TOWARD ANY DEVELOPMENT FEES IDENTIFIED IN THE INFRASTRUCTURE
 8 IMPROVEMENTS PLAN TO FUND ANY PARK FACILITIES OR FACILITY EXPANSION. ON
 9 REQUEST OF THE INDIVIDUAL OR ENTITY SEEKING DEVELOPMENT APPROVAL, INSTEAD OF
 10 ISSUING A CREDIT TOWARD THE PAYMENT OF DEVELOPMENT FEES, THE COUNTY SHALL
 11 PROVIDE FOR REIMBURSEMENT FROM THE DEVELOPMENT FEES PAID FROM ALL DEVELOPMENT
 12 THAT WILL USE THOSE FACILITIES OR FACILITY EXPANSIONS OF THE ACTUAL COSTS OF
 13 THE CONSTRUCTION OR IMPROVEMENT OF, CONTRIBUTIONS TO OR DEDICATION OF THE
 14 PUBLIC FACILITIES REQUIRED AS A CONDITION OF DEVELOPMENT APPROVAL.

15 12. THE COUNTY SHALL FORECAST THE CONTRIBUTION TO BE MADE IN THE
 16 FUTURE IN CASH, TAXES, FEES, ASSESSMENTS AND ALL OTHER SOURCES OF REVENUE
 17 DERIVED FROM THE PROPERTY OWNER TOWARDS THE CAPITAL COSTS OF THE NECESSARY
 18 PUBLIC SERVICE COVERED BY THE DEVELOPMENT FEES.

19 ~~5.~~ 13. IF development fees ~~shall be~~ ARE assessed ~~in a~~
 20 ~~nondiscriminatory manner~~ AGAINST RESIDENTIAL DEVELOPMENT, THE COUNTY SHALL
 21 ALSO ASSESS DEVELOPMENT FEES AGAINST COMMERCIAL AND INDUSTRIAL DEVELOPMENT.
 22 THE COUNTY MAY DISTINGUISH BETWEEN DIFFERENT CATEGORIES OF RESIDENTIAL,
 23 COMMERCIAL AND INDUSTRIAL DEVELOPMENT IN ASSESSING THE COSTS TO THE COUNTY OF
 24 PROVIDING NECESSARY PUBLIC SERVICES TO NEW DEVELOPMENT AND IN DETERMINING THE
 25 AMOUNT OF THE DEVELOPMENT FEES APPLICABLE TO THE CATEGORY, EXCEPT THAT THE
 26 COUNTY MAY NOT DISTINGUISH RESIDENTIAL DEVELOPMENTS ON THE BASIS OF THE SIZE
 27 OF THE DWELLING UNIT OR NUMBER OF BEDROOMS. IF A COUNTY AGREES TO WAIVE ANY
 28 OF THE DEVELOPMENT FEES ASSESSED ON A DEVELOPMENT, THE COUNTY SHALL REIMBURSE
 29 THE APPROPRIATE DEVELOPMENT FEES ACCOUNTS FOR THE AMOUNT THAT WAS
 30 WAIVED. THE COUNTY SHALL PROVIDE NOTICE OF ANY SUCH WAIVER TO THE ADVISORY
 31 COMMITTEE ESTABLISHED PURSUANT TO SUBSECTION I OF THIS SECTION.

32 ~~6.~~ 14. In determining and assessing ~~a~~ development ~~fee~~ FEES applying
 33 to land in a community facilities district established under title 48,
 34 chapter 4, article 6, the county shall take into account all public
 35 infrastructure provided by the district and capital costs paid by the
 36 district for necessary public services and shall not assess a portion of the
 37 development ~~fee~~ FEES based on the infrastructure or costs.

38 ~~7.~~ 15. The county shall not assess or collect development fees from a
 39 school district or charter school, other than fees assessed or collected for
 40 streets and water and ~~sewer~~ WASTEWATER utility functions.

41 C. Before assessing ~~or increasing a~~ development ~~fee~~ FEES, the county
 42 shall:

43 1. Give at least ~~one hundred twenty~~ THIRTY days' advance notice of
 44 intention to assess ~~a~~ new or increased development ~~fee~~ FEES.

1 2. Release to the public AND POST ON THE COUNTY'S WEBSITE a written
2 report ~~including all documentation that supports the assessment of a new or~~
3 ~~increased development fee~~ OF THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE
4 IMPROVEMENTS PLAN ADOPTED PURSUANT TO SUBSECTION E OF THIS SECTION.

5 3. Conduct a public hearing on the proposed ~~new or increased~~
6 development ~~fee~~ FEES at any time after the expiration of the ~~one hundred~~
7 ~~twenty day~~ THIRTY-DAY notice of intention to assess a ~~new or increased~~
8 development ~~fee~~ FEES and at least ~~fourteen~~ THIRTY days before the scheduled
9 date of adoption of the ~~new or increased fee~~ DEVELOPMENT FEES. WITHIN SIXTY
10 DAYS AFTER THE DATE OF THE PUBLIC HEARING ON THE PROPOSED DEVELOPMENT FEES,
11 THE COUNTY SHALL APPROVE OR DISAPPROVE THE IMPOSITION OF THE DEVELOPMENT
12 FEES. A COUNTY MAY NOT ADOPT AN ORDINANCE, ORDER OR RESOLUTION APPROVING
13 DEVELOPMENT FEES AS AN EMERGENCY MEASURE.

14 D. ~~A~~ Development ~~fee~~ FEES assessed pursuant to this section ~~is~~ ARE
15 not effective for at least ninety days after ~~its~~ formal adoption by the board
16 of supervisors.

17 E. BEFORE THE ADOPTION OR AMENDMENT OF DEVELOPMENT FEES OR AMENDMENT
18 OF THE BOUNDARIES OF A SERVICE AREA, THE BOARD OF SUPERVISORS SHALL ADOPT OR
19 UPDATE THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN FOR THE
20 DESIGNATED SERVICE AREA. THE COUNTY SHALL CONDUCT A PUBLIC HEARING ON THE
21 LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN AT LEAST THIRTY
22 DAYS BEFORE THE ADOPTION OR UPDATE OF THE INFRASTRUCTURE IMPROVEMENTS PLAN.
23 THE COUNTY SHALL RELEASE THE INFRASTRUCTURE IMPROVEMENTS PLAN TO THE PUBLIC,
24 POST THE INFRASTRUCTURE IMPROVEMENTS PLAN ON THE COUNTY'S WEBSITE, INCLUDING
25 IN THE POSTING THE LAND USE ASSUMPTIONS, THE TIME PERIOD OF THE PROJECTIONS,
26 A DESCRIPTION OF THE NECESSARY PUBLIC SERVICES INCLUDED IN THE INFRASTRUCTURE
27 IMPROVEMENTS PLAN AND A MAP OF THE SERVICE AREA TO WHICH THE LAND USE
28 ASSUMPTIONS APPLY, MAKE AVAILABLE TO THE PUBLIC THE DOCUMENTS USED TO PREPARE
29 THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN AND PROVIDE
30 PUBLIC NOTICE AT LEAST SIXTY DAYS BEFORE THE PUBLIC HEARING, SUBJECT TO THE
31 FOLLOWING:

32 1. THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN SHALL
33 BE APPROVED OR DISAPPROVED WITHIN SIXTY DAYS AFTER THE PUBLIC HEARING ON THE
34 LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN AND AT LEAST THIRTY
35 DAYS BEFORE THE PUBLIC HEARING ON THE REPORT REQUIRED BY SUBSECTION C OF THIS
36 SECTION. A COUNTY MAY NOT ADOPT AN ORDINANCE, ORDER OR RESOLUTION APPROVING
37 THE LAND USE ASSUMPTIONS OR INFRASTRUCTURE IMPROVEMENTS PLAN AS AN EMERGENCY
38 MEASURE.

39 2. AN INFRASTRUCTURE IMPROVEMENTS PLAN SHALL BE DEVELOPED BY QUALIFIED
40 PROFESSIONALS USING GENERALLY ACCEPTED ENGINEERING AND PLANNING PRACTICES
41 PURSUANT TO SUBSECTION F OF THIS SECTION.

42 3. A COUNTY SHALL UPDATE THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE
43 IMPROVEMENTS PLAN AT LEAST EVERY FIVE YEARS. THE INITIAL FIVE-YEAR PERIOD
44 BEGINS ON THE DAY THE INFRASTRUCTURE IMPROVEMENTS PLAN IS ADOPTED. THE
45 COUNTY SHALL REVIEW AND EVALUATE THE CURRENT LAND USE ASSUMPTIONS AND SHALL

1 CAUSE AN UPDATE OF THE INFRASTRUCTURE IMPROVEMENTS PLAN TO BE PREPARED
2 PURSUANT TO THIS SECTION.

3 4. WITHIN SIXTY DAYS AFTER COMPLETION OF THE UPDATED LAND USE
4 ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENTS PLAN, THE COUNTY SHALL SCHEDULE
5 AND PROVIDE NOTICE OF A PUBLIC HEARING TO DISCUSS AND REVIEW THE UPDATE AND
6 SHALL DETERMINE WHETHER TO AMEND THE LAND USE ASSUMPTIONS AND INFRASTRUCTURE
7 IMPROVEMENTS PLAN.

8 5. A COUNTY SHALL HOLD A PUBLIC HEARING TO DISCUSS THE PROPOSED
9 AMENDMENTS TO THE LAND USE ASSUMPTIONS, THE INFRASTRUCTURE IMPROVEMENTS PLAN
10 OR THE DEVELOPMENT FEES. THE LAND USE ASSUMPTIONS AND THE INFRASTRUCTURE
11 IMPROVEMENTS PLAN, INCLUDING THE AMOUNT OF ANY PROPOSED CHANGES TO THE
12 DEVELOPMENT FEES PER SERVICE UNIT, SHALL BE MADE AVAILABLE TO THE PUBLIC ON
13 OR BEFORE THE DATE OF THE FIRST PUBLICATION OF THE NOTICE OF THE HEARING ON
14 THE AMENDMENTS.

15 6. THE HEARING PROCEDURES PRESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION
16 APPLY TO A HEARING ON THE AMENDMENT OF LAND USE ASSUMPTIONS, AN
17 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES. WITHIN SIXTY DAYS
18 AFTER THE DATE OF THE PUBLIC HEARING ON THE AMENDMENTS, A COUNTY SHALL
19 APPROVE OR DISAPPROVE THE AMENDMENTS TO THE LAND USE ASSUMPTIONS,
20 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES. A COUNTY MAY NOT ADOPT
21 AN ORDINANCE, ORDER OR RESOLUTION APPROVING THE AMENDED LAND USE ASSUMPTIONS,
22 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES AS AN EMERGENCY MEASURE.

23 7. THE ADVISORY COMMITTEE ESTABLISHED UNDER SUBSECTION I OF THIS
24 SECTION SHALL FILE ITS WRITTEN COMMENTS ON ANY PROPOSED OR UPDATED LAND USE
25 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES BEFORE THE
26 FIFTH BUSINESS DAY BEFORE THE DATE OF THE PUBLIC HEARING ON THE PROPOSED OR
27 UPDATED LAND USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND
28 DEVELOPMENT FEES.

29 8. IF, AT THE TIME AN UPDATE AS PRESCRIBED IN PARAGRAPH 3 OF THIS
30 SUBSECTION IS REQUIRED, THE COUNTY DETERMINES THAT NO CHANGES TO THE LAND USE
31 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES ARE NEEDED,
32 THE COUNTY, AS AN ALTERNATIVE TO THE UPDATING REQUIREMENTS OF THIS
33 SUBSECTION, MAY PUBLISH NOTICE OF THE DETERMINATION ON THE COUNTY'S WEBSITE
34 THAT INCLUDES THE FOLLOWING:

35 (a) A STATEMENT THAT THE COUNTY HAS DETERMINED THAT NO CHANGE TO THE
36 LAND USE ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES IS
37 NECESSARY.

38 (b) A DESCRIPTION AND MAP OF THE SERVICE AREA IN WHICH AN UPDATE HAS
39 BEEN DETERMINED TO BE UNNECESSARY.

40 (c) A STATEMENT THAT BY A SPECIFIED DATE, WHICH SHALL BE AT LEAST
41 SIXTY DAYS AFTER THE DATE OF PUBLICATION OF THE FIRST NOTICE, A PERSON MAY
42 REQUEST TO THE COUNTY IN WRITING THAT THE COUNTY UPDATE THE LAND USE
43 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES.

44 (d) A STATEMENT IDENTIFYING THE PERSON OR ENTITY TO WHOM THE WRITTEN
45 REQUEST FOR AN UPDATE SHOULD BE SENT.

1 9. IF, BY THE DATE SPECIFIED PURSUANT TO PARAGRAPH 8 OF THIS
2 SUBSECTION, A PERSON REQUESTS IN WRITING THAT THE COUNTY UPDATE THE LAND USE
3 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES, THE COUNTY
4 SHALL CAUSE, ACCEPT OR REJECT AN UPDATE OF THE LAND USE ASSUMPTIONS,
5 INFRASTRUCTURE IMPROVEMENTS PLAN OR DEVELOPMENT FEES TO BE PREPARED PURSUANT
6 TO THIS SECTION.

7 10. NOTWITHSTANDING THE NOTICE AND HEARING REQUIREMENTS FOR ADOPTION
8 OF AN INFRASTRUCTURE IMPROVEMENTS PLAN, THE COUNTY MAY AMEND AN
9 INFRASTRUCTURE IMPROVEMENTS PLAN WITHOUT A PUBLIC HEARING IF THE AMENDMENT
10 ADDRESSES ONLY ELEMENTS OF NECESSARY PUBLIC SERVICES IN THE EXISTING
11 INFRASTRUCTURE IMPROVEMENTS PLAN AND THE CHANGES TO THE PLAN WILL NOT,
12 INDIVIDUALLY OR CUMULATIVELY WITH OTHER AMENDMENTS ADOPTED PURSUANT TO THIS
13 SUBSECTION, INCREASE THE LEVEL OF SERVICE IN THE SERVICE AREA OR CAUSE AN
14 INCREASE IN DEVELOPMENT FEES THAT IS GREATER THAN FIVE PERCENT WHEN NEW OR
15 MODIFIED DEVELOPMENT FEES ARE ASSESSED PURSUANT TO THIS SECTION. THE COUNTY
16 SHALL PROVIDE NOTICE OF THE AMENDMENT AT LEAST THIRTY DAYS BEFORE ADOPTION,
17 SHALL POST THE AMENDMENT ON THE COUNTY'S WEBSITE AND SHALL PROVIDE NOTICE TO
18 THE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SUBSECTION I OF THIS SECTION
19 THAT THE AMENDMENT COMPLIES WITH THIS SUBSECTION.

20 F. FOR EACH NECESSARY PUBLIC SERVICE THAT IS THE SUBJECT OF
21 DEVELOPMENT FEES, THE INFRASTRUCTURE IMPROVEMENTS PLAN SHALL INCLUDE:

22 1. A DESCRIPTION OF THE EXISTING NECESSARY PUBLIC SERVICES IN THE
23 SERVICE AREA AND THE COSTS TO UPGRADE, UPDATE, IMPROVE, EXPAND, CORRECT OR
24 REPLACE THOSE NECESSARY PUBLIC SERVICES TO MEET EXISTING NEEDS AND USAGE AND
25 STRICTER SAFETY, EFFICIENCY, ENVIRONMENTAL OR REGULATORY STANDARDS. THE
26 DESCRIPTION SHALL BE PREPARED BY QUALIFIED PROFESSIONALS WHO ARE LICENSED IN
27 THIS STATE, AS APPLICABLE.

28 2. AN ANALYSIS OF THE TOTAL CAPACITY, THE LEVEL OF CURRENT USAGE AND
29 COMMITMENTS FOR USAGE OF CAPACITY OF THE EXISTING NECESSARY PUBLIC SERVICES.
30 THE ANALYSIS SHALL BE PREPARED BY QUALIFIED PROFESSIONALS WHO ARE LICENSED IN
31 THIS STATE, AS APPLICABLE.

32 3. A DESCRIPTION OF ALL OR THE PARTS OF THE NECESSARY PUBLIC SERVICES
33 OR FACILITY EXPANSIONS AND THEIR COSTS NECESSITATED BY AND ATTRIBUTABLE TO
34 NEW DEVELOPMENT IN THE SERVICE AREA BASED ON THE APPROVED LAND USE
35 ASSUMPTIONS, INCLUDING A FORECAST OF THE COST OF INFRASTRUCTURE,
36 IMPROVEMENTS, REAL PROPERTY, FINANCING, ENGINEERING AND ARCHITECTURAL
37 SERVICES. THE DESCRIPTION SHALL BE PREPARED BY QUALIFIED PROFESSIONALS WHO
38 ARE LICENSED IN THIS STATE, AS APPLICABLE.

39 4. A TABLE THAT ESTABLISHES THE SPECIFIC LEVEL OR QUANTITY OF USE,
40 CONSUMPTION, GENERATION OR DISCHARGE OF A SERVICE UNIT FOR EACH CATEGORY OF
41 NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS AND AN EQUIVALENCY OR
42 CONVERSION TABLE THAT ESTABLISHES THE RATIO OF A SERVICE UNIT TO VARIOUS
43 TYPES OF LAND USES, INCLUDING RESIDENTIAL, COMMERCIAL AND INDUSTRIAL.

44 5. A DESCRIPTION OF ALL THE COSTS NECESSITATED BY ONGOING MAINTENANCE
45 AND OPERATIONS OF THE NECESSARY PUBLIC SERVICES ONCE CONSTRUCTION IS

1 COMPLETED AND A DESCRIPTION OF THE SOURCE OF REVENUE TO BE USED TO FUND THE
2 MAINTENANCE AND OPERATIONS.

3 6. THE TOTAL NUMBER OF PROJECTED SERVICE UNITS NECESSITATED BY AND
4 ATTRIBUTABLE TO NEW DEVELOPMENT IN THE SERVICE AREA BASED ON THE APPROVED
5 LAND USE ASSUMPTIONS AND CALCULATED PURSUANT TO GENERALLY ACCEPTED
6 ENGINEERING AND PLANNING CRITERIA.

7 7. THE PROJECTED DEMAND FOR NECESSARY PUBLIC SERVICES OR FACILITY
8 EXPANSIONS REQUIRED BY NEW SERVICE UNITS FOR A PERIOD OF NOT MORE THAN TEN
9 YEARS.

10 8. A FORECAST OF REVENUES GENERATED BY NEW SERVICE UNITS OTHER THAN
11 DEVELOPMENT FEES, INCLUDING ESTIMATED STATE SHARED REVENUE, HIGHWAY USER
12 REVENUE, FEDERAL REVENUE, AD VALOREM PROPERTY TAXES, CONSTRUCTION CONTRACTING
13 OR SIMILAR EXCISE TAXES AND THE CAPITAL RECOVERY PORTION OF UTILITY FEES
14 ATTRIBUTABLE TO DEVELOPMENT BASED ON THE APPROVED LAND USE ASSUMPTIONS, AND A
15 PLAN TO INCLUDE THESE CONTRIBUTIONS IN DETERMINING THE EXTENT OF THE BURDEN
16 IMPOSED BY THE DEVELOPMENT AS REQUIRED IN SUBSECTION B, PARAGRAPH 12 OF THIS
17 SECTION.

18 G. A COUNTY'S INFRASTRUCTURE IMPROVEMENTS PLAN MAY IDENTIFY NECESSARY
19 PUBLIC SERVICES OR FACILITY EXPANSIONS THAT THE COUNTY PLANS TO CONSTRUCT
20 BEYOND THE TIME PERIOD PROVIDED FOR IN SUBSECTION J, PARAGRAPH 3 OF THIS
21 SECTION BUT MAY NOT INCLUDE THE COSTS OF THOSE NECESSARY PUBLIC SERVICES OR
22 FACILITY EXPANSIONS IN THE CALCULATION OF DEVELOPMENT FEES.

23 H. A COUNTY'S DEVELOPMENT FEES ORDINANCE SHALL PROVIDE:

24 1. THAT NEW DEVELOPMENT FEES OR AN INCREASED PORTION OF MODIFIED
25 DEVELOPMENT FEES MAY NOT BE ASSESSED AGAINST A DEVELOPMENT FOR TWENTY-FOUR
26 MONTHS AFTER THE DATE THAT THE COUNTY ISSUES THE FINAL APPROVAL FOR A
27 COMMERCIAL, INDUSTRIAL OR MULTIFAMILY DEVELOPMENT OR THE DATE THAT THE FIRST
28 BUILDING PERMIT IS ISSUED FOR A RESIDENTIAL DEVELOPMENT PURSUANT TO AN
29 APPROVED SITE PLAN OR SUBDIVISION PLAT, ONLY IF SUBSEQUENT CHANGES ARE NOT
30 MADE TO THE APPROVED SITE PLAN OR SUBDIVISION PLAT THAT WOULD INCREASE THE
31 NUMBER OF SERVICE UNITS. IF THE NUMBER OF SERVICE UNITS INCREASES, THE NEW
32 OR INCREASED PORTION OF MODIFIED DEVELOPMENT FEES SHALL BE LIMITED TO THE
33 AMOUNT ATTRIBUTABLE TO THE ADDITIONAL SERVICE UNITS. THE PERIOD IS NOT
34 EXTENDED BY A RENEWAL OR AMENDMENT OF THE SITE PLAN OR THE FINAL SUBDIVISION
35 PLAT THAT WAS THE SUBJECT OF THE FINAL APPROVAL. THE COUNTY SHALL ISSUE, ON
36 REQUEST, A WRITTEN STATEMENT OF THE DEVELOPMENT FEES SCHEDULE APPLICABLE TO
37 THE DEVELOPMENT. IF, AFTER THE DATE OF THE COUNTY'S FINAL APPROVAL OF A
38 DEVELOPMENT, THE COUNTY REDUCES THE DEVELOPMENT FEES ASSESSED ON DEVELOPMENT,
39 THE REDUCED FEES SHALL APPLY TO THE DEVELOPMENT.

40 2. A PROCESS FOR A DEVELOPMENT TO REQUEST AN ALTERNATIVE DEVELOPMENT
41 FEE CALCULATION OR CHANGE IN CATEGORY OF DEVELOPMENT THAT APPEARS ON AN
42 ADOPTED DEVELOPMENT FEE SCHEDULE BASED ON A PROJECTION THAT THE ACTUAL
43 BURDENS AND COSTS ASSOCIATED WITH THE COUNTY'S PROVISION OF NECESSARY PUBLIC
44 SERVICES OR FACILITY EXPANSIONS TO THE DEVELOPMENT THAT ARE TO BE PAID BY
45 DEVELOPMENT FEES WILL DIFFER SUBSTANTIALLY FROM THOSE COSTS PROJECTED BY THE

1 COUNTY OR WILL BE SUBSTANTIALLY LESS THAN THE AMOUNT PROJECTED TO BE PAID BY
2 DEVELOPMENT FEES. THE COUNTY MANAGER OR THE COUNTY MANAGER'S DESIGNEE SHALL
3 REVIEW THE REQUEST AND MAKE A DETERMINATION AS TO THE DEVELOPMENT FEE TO BE
4 ASSESSED. THE ASSESSED DEVELOPMENT FEE SHALL HAVE A SUBSTANTIAL NEXUS TO THE
5 ACTUAL BURDENS AND COSTS ASSOCIATED WITH PROVIDING THE NECESSARY PUBLIC
6 SERVICES OR FACILITY EXPANSIONS TO THAT DEVELOPMENT THAT ARE TO BE FUNDED BY
7 DEVELOPMENT FEES. THE DETERMINATION OF THE COUNTY MANAGER IS APPEALABLE TO
8 THE BOARD OF SUPERVISORS.

9 I. A COUNTY SHALL DO ONE OF THE FOLLOWING:

10 1. BEFORE THE ADOPTION OF THE PROPOSED OR UPDATED LAND USE
11 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES AS
12 PRESCRIBED IN SUBSECTION E OF THIS SECTION, APPOINT AN INFRASTRUCTURE
13 IMPROVEMENTS ADVISORY COMMITTEE, SUBJECT TO THE FOLLOWING REQUIREMENTS:

14 (a) THE ADVISORY COMMITTEE SHALL BE COMPOSED OF AT LEAST FIVE MEMBERS
15 WHO ARE APPOINTED BY THE BOARD OF SUPERVISORS. AT LEAST FIFTY PERCENT OF THE
16 MEMBERS OF THE ADVISORY COMMITTEE MUST BE REPRESENTATIVES OF THE REAL ESTATE,
17 DEVELOPMENT OR BUILDING INDUSTRIES, OF WHICH AT LEAST ONE MEMBER OF THE
18 COMMITTEE MUST BE FROM THE HOME BUILDING INDUSTRY. MEMBERS MAY NOT BE
19 EMPLOYEES OR OFFICIALS OF THE COUNTY.

20 (b) THE ADVISORY COMMITTEE SHALL SERVE IN AN ADVISORY CAPACITY AND
21 SHALL:

22 (i) ADVISE THE COUNTY IN ADOPTING LAND USE ASSUMPTIONS AND IN
23 DETERMINING WHETHER THE ASSUMPTIONS ARE IN CONFORMANCE WITH THE GENERAL PLAN
24 OF THE COUNTY.

25 (ii) REVIEW THE INFRASTRUCTURE IMPROVEMENTS PLAN AND FILE WRITTEN
26 COMMENTS.

27 (iii) MONITOR AND EVALUATE IMPLEMENTATION OF THE INFRASTRUCTURE
28 IMPROVEMENTS PLAN.

29 (iv) EVERY YEAR FILE REPORTS WITH RESPECT TO THE PROGRESS OF THE
30 INFRASTRUCTURE IMPROVEMENTS PLAN AND THE COLLECTION AND EXPENDITURES OF
31 DEVELOPMENT FEES AND REPORT TO THE COUNTY ANY PERCEIVED INEQUITIES IN
32 IMPLEMENTING THE INFRASTRUCTURE IMPROVEMENTS PLAN OR ASSESSING THE
33 DEVELOPMENT FEES.

34 (v) ADVISE THE COUNTY OF THE NEED TO UPDATE OR REVISE THE LAND USE
35 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES.

36 (c) THE COUNTY SHALL MAKE AVAILABLE TO THE ADVISORY COMMITTEE ANY
37 PROFESSIONAL REPORTS WITH RESPECT TO DEVELOPING AND IMPLEMENTING THE
38 INFRASTRUCTURE IMPROVEMENTS PLAN.

39 (d) THE COUNTY SHALL ADOPT PROCEDURAL RULES FOR THE ADVISORY COMMITTEE
40 TO FOLLOW IN CARRYING OUT THE ADVISORY COMMITTEE'S DUTIES.

41 2. PROVIDE FOR A BIENNIAL CERTIFIED AUDIT OF THE COUNTY'S LAND USE
42 ASSUMPTIONS, INFRASTRUCTURE IMPROVEMENTS PLAN AND DEVELOPMENT FEES. AN AUDIT
43 PURSUANT TO THIS PARAGRAPH SHALL BE CONDUCTED BY ONE OR MORE QUALIFIED
44 PROFESSIONALS WHO ARE NOT EMPLOYEES OR OFFICIALS OF THE COUNTY AND WHO DID
45 NOT PREPARE THE INFRASTRUCTURE IMPROVEMENTS PLAN. THE AUDIT SHALL REVIEW THE

1 PROGRESS OF THE INFRASTRUCTURE IMPROVEMENTS PLAN, INCLUDING THE COLLECTION
2 AND EXPENDITURES OF DEVELOPMENT FEES FOR EACH PROJECT IN THE INFRASTRUCTURE
3 IMPROVEMENTS PLAN, AND EVALUATE ANY INEQUITIES IN IMPLEMENTING THE
4 INFRASTRUCTURE IMPROVEMENTS PLAN OR IMPOSING THE DEVELOPMENT FEES. THE
5 COUNTY SHALL POST THE FINDINGS OF THE AUDIT ON THE COUNTY'S WEBSITE AND SHALL
6 CONDUCT A PUBLIC HEARING ON THE AUDIT WITHIN SIXTY DAYS AFTER THE RELEASE OF
7 THE AUDIT TO THE PUBLIC.

8 J. ON WRITTEN REQUEST, AN OWNER OF REAL PROPERTY FOR WHICH DEVELOPMENT
9 FEES HAVE BEEN PAID AFTER DECEMBER 31, 2020 IS ENTITLED TO A REFUND OF THE
10 DEVELOPMENT FEES OR ANY PART OF THE DEVELOPMENT FEES IF:

11 1. PURSUANT TO SUBSECTION B, PARAGRAPH 6 OF THIS SECTION, EXISTING
12 FACILITIES ARE AVAILABLE AND SERVICE IS NOT PROVIDED.

13 2. THE COUNTY, AFTER COLLECTING THE FEES TO CONSTRUCT A FACILITY WHEN
14 SERVICE IS NOT AVAILABLE, HAS FAILED TO COMPLETE CONSTRUCTION WITHIN THE TIME
15 PERIOD IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN, BUT IN NO EVENT
16 LATER THAN THE TIME PERIOD SPECIFIED IN PARAGRAPH 3 OF THIS SUBSECTION.

17 3. FOR DEVELOPMENT FEES OTHER THAN DEVELOPMENT FEES FOR WATER OR
18 WASTEWATER FACILITIES, ANY PART OF THE DEVELOPMENT FEES IS NOT SPENT AS
19 AUTHORIZED BY THIS SECTION WITHIN TEN YEARS AFTER THE FEES HAVE BEEN PAID OR,
20 FOR DEVELOPMENT FEES FOR WATER OR WASTEWATER FACILITIES, ANY PART OF THE
21 DEVELOPMENT FEES IS NOT SPENT AS AUTHORIZED BY THIS SECTION WITHIN FIFTEEN
22 YEARS AFTER THE DEVELOPMENT FEES HAVE BEEN PAID.

23 K. IF THE DEVELOPMENT FEES WERE COLLECTED FOR THE CONSTRUCTION OF ALL
24 OR A PORTION OF A SPECIFIC ITEM OF INFRASTRUCTURE, AND ON COMPLETION OF THE
25 INFRASTRUCTURE THE COUNTY DETERMINES THAT THE ACTUAL COST OF CONSTRUCTION WAS
26 LESS THAN THE FORECASTED COST OF CONSTRUCTION ON WHICH THE DEVELOPMENT FEES
27 WERE BASED AND THE DIFFERENCE BETWEEN THE ACTUAL AND ESTIMATED COST IS
28 GREATER THAN TEN PERCENT, THE CURRENT OWNER MAY RECEIVE A REFUND OF THE
29 PORTION OF THE DEVELOPMENT FEES EQUAL TO THE DIFFERENCE BETWEEN THE
30 DEVELOPMENT FEES PAID AND THE DEVELOPMENT FEES THAT WOULD HAVE BEEN DUE IF
31 THE DEVELOPMENT FEES HAD BEEN CALCULATED AT THE ACTUAL CONSTRUCTION COST.

32 L. A REFUND SHALL INCLUDE ANY INTEREST EARNED BY THE COUNTY FROM THE
33 DATE OF COLLECTION TO THE DATE OF REFUND ON THE AMOUNT OF THE REFUNDED FEES.
34 ALL REFUNDS SHALL BE PAID TO THE OWNER OF RECORD OF THE PROPERTY AT THE TIME
35 THE REFUND IS PAID. IF THE DEVELOPMENT FEES ARE PAID BY A GOVERNMENTAL
36 ENTITY, THE REFUND SHALL BE PAID TO THE GOVERNMENTAL ENTITY.

37 M. DEVELOPMENT FEES THAT WERE ADOPTED BEFORE JANUARY 1, 2017 MAY
38 CONTINUE TO BE ASSESSED ONLY TO THE EXTENT THAT THE DEVELOPMENT FEES WILL BE
39 USED TO PROVIDE A NECESSARY PUBLIC SERVICE FOR WHICH DEVELOPMENT FEES CAN BE
40 ASSESSED PURSUANT TO THIS SECTION AND SHALL BE REPLACED BY DEVELOPMENT FEES
41 IMPOSED UNDER THIS SECTION ON OR BEFORE JANUARY 1, 2021. ANY COUNTY HAVING
42 DEVELOPMENT FEES THAT HAVE NOT BEEN REPLACED UNDER THIS SECTION ON OR BEFORE
43 JANUARY 1, 2021 MAY NOT COLLECT DEVELOPMENT FEES UNTIL THE DEVELOPMENT FEES
44 HAVE BEEN REPLACED WITH FEES THAT COMPLY WITH THIS SECTION. DEVELOPMENT FEES
45 ADOPTED OR AMENDED BY A COUNTY AFTER JANUARY 1, 2017 SHALL COMPLY WITH THIS

1 SECTION. ANY DEVELOPMENT FEES MONIES COLLECTED BEFORE JANUARY 1, 2017
2 REMAINING IN A DEVELOPMENT FEES ACCOUNT:

3 1. SHALL BE USED TOWARDS THE SAME CATEGORY OF NECESSARY PUBLIC
4 SERVICES AS AUTHORIZED BY THIS SECTION.

5 2. AND COLLECTED FOR A PURPOSE NOT AUTHORIZED BY THIS SECTION SHALL BE
6 USED FOR THE PURPOSE FOR WHICH THE DEVELOPMENT FEES WERE COLLECTED ON OR
7 BEFORE JANUARY 1, 2024, AND AFTER WHICH, IF NOT SPENT, SHALL BE DISTRIBUTED
8 EQUALLY AMONG THE CATEGORIES OF NECESSARY PUBLIC SERVICES AUTHORIZED BY THIS
9 SECTION.

10 N. A MORATORIUM MAY NOT BE PLACED ON DEVELOPMENT FOR THE SOLE PURPOSE
11 OF AWAITING COMPLETION OF ALL OR ANY PART OF THE PROCESS NECESSARY TO
12 DEVELOP, ADOPT OR UPDATE DEVELOPMENT FEES.

13 O. IN ANY JUDICIAL ACTION INTERPRETING THIS SECTION ALL POWERS
14 CONFERRED ON A COUNTY BY THIS SECTION SHALL BE NARROWLY CONSTRUED TO ENSURE
15 THAT DEVELOPMENT FEES ARE NOT USED TO IMPOSE ON NEW RESIDENTS A BURDEN ALL
16 TAXPAYERS OF A COUNTY SHOULD BEAR EQUALLY.

17 ~~E.~~ P. Each county that assesses development fees shall submit an
18 annual report accounting for the collection and use of the fees FOR EACH
19 SERVICE AREA. The annual report shall include the following:

20 1. The amount assessed by the county for each type of development fee.

21 2. The balance of each fund maintained for each type of development
22 fee assessed as of the beginning and end of the fiscal year.

23 3. The amount of interest or other earnings on the monies in each fund
24 as of the end of the fiscal year.

25 4. The amount of development fee monies used to repay:

26 (a) Bonds issued by the county to pay the cost of a ~~capital~~
27 ~~improvement project~~ NECESSARY PUBLIC SERVICE that is the subject of a
28 development ~~fee~~ FEES assessment, INCLUDING THE AMOUNT NEEDED TO REPAY THE
29 DEBT SERVICE OBLIGATIONS ON EACH FACILITY FOR WHICH DEVELOPMENT FEES HAVE
30 BEEN IDENTIFIED AS THE SOURCE OF FUNDING AND THE TIME FRAMES IN WHICH THE
31 DEBT SERVICE WILL BE REPAYED.

32 (b) Monies advanced by the county from funds other than the funds
33 established for development fees in order to pay the cost of a ~~capital~~
34 ~~improvement project~~ NECESSARY PUBLIC SERVICE that is the subject of a
35 development ~~fee~~ FEES assessment, THE TOTAL AMOUNT ADVANCED BY THE COUNTY FOR
36 EACH FACILITY, THE SOURCE OF THE MONIES ADVANCED AND THE TERMS UNDER WHICH
37 THE MONIES WILL BE REPAYED TO THE COUNTY.

38 5. The amount of development ~~fee~~ FEES monies spent on each ~~capital~~
39 ~~improvement project~~ NECESSARY PUBLIC SERVICE OR FACILITY EXPANSION that is
40 the subject of a development ~~fee~~ FEES assessment and the physical location of
41 each capital improvement project.

42 6. The amount of development ~~fee~~ FEES monies spent for each purpose
43 other than a ~~capital improvement project~~ NECESSARY PUBLIC SERVICE OR FACILITY
44 EXPANSION that is the subject of a development ~~fee~~ FEES assessment.

1 ~~F.~~ Q. Within ninety days following the end of each fiscal year, each
2 county shall submit a copy of the annual report to the clerk of the board of
3 supervisors AND POST THE ANNUAL REPORT ON THE COUNTY'S WEBSITE. Copies shall
4 be made available to the public on request. The annual report may contain
5 financial information that has not been audited.

6 ~~G.~~ R. A county that fails to file the report AND POST THE ANNUAL
7 REPORT ON THE COUNTY'S WEBSITE AS required by this section shall not collect
8 development fees until the report is filed AND POSTED.

9 ~~H. This section does not affect any development fee adopted before~~
10 ~~May 18, 2000.~~

11 S. ANY ACTION TO COLLECT DEVELOPMENT FEES SHALL BE COMMENCED WITHIN
12 TWO YEARS AFTER THE OBLIGATION TO PAY THE DEVELOPMENT FEES ACCRUES.

13 T. A COUNTY MAY CONTINUE TO ASSESS DEVELOPMENT FEES ADOPTED BEFORE
14 JANUARY 1, 2017 FOR ANY FACILITY THAT WAS FINANCED BEFORE JUNE 1, 2016 IF:

15 1. DEVELOPMENT FEES WERE PLEDGED TO REPAY DEBT SERVICE OBLIGATIONS
16 RELATED TO THE CONSTRUCTION OF THE FACILITY.

17 2. AFTER JANUARY 1, 2018, ANY DEVELOPMENT FEES COLLECTED UNDER THIS
18 SUBSECTION ARE USED SOLELY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE
19 PORTION OF THE BONDS, NOTES OR OTHER DEBT SERVICE OBLIGATIONS ISSUED BEFORE
20 JUNE 1, 2016 TO FINANCE CONSTRUCTION OF THE FACILITY.

21 U. THROUGH JANUARY 1, 2018, DEVELOPMENT FEES ADOPTED BEFORE JANUARY 1,
22 2017 MAY BE USED TO FINANCE CONSTRUCTION OF A FACILITY AND MAY BE PLEDGED TO
23 REPAY DEBT SERVICE OBLIGATIONS IF:

24 1. THE FACILITY THAT IS BEING FINANCED IS A FACILITY THAT IS DESCRIBED
25 UNDER SUBSECTION V, PARAGRAPH 7, SUBDIVISION (a), (b), (c), (d) OR (e) OF
26 THIS SECTION.

27 2. THE FACILITY WAS INCLUDED IN AN INFRASTRUCTURE IMPROVEMENTS PLAN
28 ADOPTED BEFORE JUNE 1, 2016.

29 3. THE DEVELOPMENT FEES ARE USED FOR THE PAYMENT OF PRINCIPAL AND
30 INTEREST ON THE PORTION OF THE BONDS, NOTES OR OTHER DEBT SERVICE OBLIGATIONS
31 ISSUED TO FINANCE CONSTRUCTION OF THE NECESSARY PUBLIC SERVICES OR FACILITY
32 EXPANSIONS IDENTIFIED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

33 V. FOR THE PURPOSES OF THIS SECTION:

34 1. "DEDICATION" MEANS THE ACTUAL CONVEYANCE DATE OR THE DATE AN
35 IMPROVEMENT, FACILITY OR REAL OR PERSONAL PROPERTY IS PLACED INTO SERVICE,
36 WHICHEVER OCCURS FIRST.

37 2. "DEVELOPMENT" MEANS:

38 (a) THE SUBDIVISION OF LAND.

39 (b) THE CONSTRUCTION, RECONSTRUCTION, CONVERSION, STRUCTURAL
40 ALTERATION, RELOCATION OR ENLARGEMENT OF ANY STRUCTURE THAT ADDS OR INCREASES
41 THE NUMBER OF SERVICE UNITS.

42 (c) ANY USE OR EXTENSION OF THE USE OF LAND THAT INCREASES THE NUMBER
43 OF SERVICE UNITS.

44 3. "FACILITY EXPANSION" MEANS THE EXPANSION OF THE CAPACITY OF AN
45 EXISTING FACILITY THAT SERVES THE SAME FUNCTION AS AN OTHERWISE NEW NECESSARY

1 PUBLIC SERVICE IN ORDER THAT THE EXISTING FACILITY MAY SERVE NEW DEVELOPMENT.
2 FACILITY EXPANSION DOES NOT INCLUDE THE REPAIR, MAINTENANCE, MODERNIZATION OR
3 EXPANSION OF AN EXISTING FACILITY TO BETTER SERVE EXISTING DEVELOPMENT.

4 4. "FINAL APPROVAL" MEANS, FOR NONRESIDENTIAL OR MULTIFAMILY
5 DEVELOPMENT, THE APPROVAL OF A SITE PLAN OR, IF NO SITE PLAN IS SUBMITTED FOR
6 THE DEVELOPMENT, THE APPROVAL OF A FINAL SUBDIVISION PLAT.

7 5. "INFRASTRUCTURE IMPROVEMENTS PLAN" MEANS A WRITTEN PLAN THAT
8 IDENTIFIES EACH NECESSARY PUBLIC SERVICE OR FACILITY EXPANSION THAT IS
9 PROPOSED TO BE THE SUBJECT OF DEVELOPMENT FEES AND OTHERWISE COMPLIES WITH
10 THE REQUIREMENTS OF THIS SECTION AND MAY BE THE COUNTY'S CAPITAL IMPROVEMENTS
11 PLAN.

12 6. "LAND USE ASSUMPTIONS" MEANS PROJECTIONS OF CHANGES IN LAND USES,
13 DENSITIES, INTENSITIES AND POPULATION FOR A SPECIFIED SERVICE AREA OVER A
14 PERIOD OF AT LEAST TEN YEARS AND PURSUANT TO THE GENERAL PLAN OF THE COUNTY.

15 7. "NECESSARY PUBLIC SERVICE" MEANS ANY OF THE FOLLOWING FACILITIES
16 THAT HAVE A LIFE EXPECTANCY OF THREE OR MORE YEARS AND THAT ARE OWNED AND
17 OPERATED BY OR ON BEHALF OF THE COUNTY:

18 (a) WATER FACILITIES, INCLUDING THE SUPPLY, TRANSPORTATION, TREATMENT,
19 PURIFICATION AND DISTRIBUTION OF WATER, AND ANY APPURTENANCES FOR THOSE
20 FACILITIES.

21 (b) WASTEWATER FACILITIES, INCLUDING COLLECTION, INTERCEPTION,
22 TRANSPORTATION, TREATMENT AND DISPOSAL OF WASTEWATER, AND ANY APPURTENANCES
23 FOR THOSE FACILITIES.

24 (c) STREET FACILITIES LOCATED IN THE SERVICE AREA, INCLUDING ARTERIAL
25 OR COLLECTOR STREETS OR ROADS THAT HAVE BEEN DESIGNATED ON AN OFFICIALLY
26 ADOPTED PLAN OF THE COUNTY, TRAFFIC SIGNALS AND RIGHTS-OF-WAY AND
27 IMPROVEMENTS THEREON. IMPROVEMENTS TO RIGHTS-OF-WAY DO NOT INCLUDE
28 STREETCARS, RAILWAYS OR OTHER FORMS OF TRANSPORTATION AND THEIR CORRESPONDING
29 TRACKS.

30 (d) PUBLIC SAFETY FACILITIES, INCLUDING ALL APPURTENANCES, EQUIPMENT
31 AND VEHICLES. PUBLIC SAFETY FACILITIES DO NOT INCLUDE A FACILITY OR PORTION
32 OF A FACILITY THAT IS USED TO REPLACE SERVICES THAT WERE ONCE PROVIDED
33 ELSEWHERE IN THE COUNTY, VEHICLES AND EQUIPMENT USED TO PROVIDE
34 ADMINISTRATIVE SERVICES, HELICOPTERS OR AIRPLANES, PARAMILITARY VEHICLES,
35 COURT AND JUDICIAL FACILITIES, FACILITIES THAT ARE USED FOR TRAINING
36 FIREFIGHTERS OR OFFICERS FROM MORE THAN ONE STATION OR SUBSTATION OR JAIL,
37 CORRECTIONAL OR DETENTION FACILITIES.

38 (e) NEIGHBORHOOD PARKS AND RECREATIONAL FACILITIES ON REAL PROPERTY UP
39 TO THIRTY ACRES IN AREA, OR PARKS AND RECREATIONAL FACILITIES LARGER THAN
40 THIRTY ACRES IF THE FACILITIES PROVIDE A DIRECT BENEFIT TO THE DEVELOPMENT.
41 PARKS AND RECREATIONAL FACILITIES DO NOT INCLUDE VEHICLES, EQUIPMENT OF THAT
42 PORTION OF ANY FACILITY THAT IS USED FOR AMUSEMENT PARKS, AQUARIUMS, AQUATIC
43 CENTERS, AUDITORIUMS, ARENAS, ARTS AND CULTURAL FACILITIES, BANDSTAND AND
44 ORCHESTRA FACILITIES, BATHHOUSES, BOATHOUSES, CLUBHOUSES, COMMUNITY CENTERS
45 GREATER THAN THREE THOUSAND SQUARE FEET IN FLOOR AREA, ENVIRONMENTAL

1 EDUCATION CENTERS, EQUESTRIAN FACILITIES, TRAILS, GOLF COURSE FACILITIES,
2 GREENHOUSES, LAKES, MUSEUMS, THEME PARKS, WATER RECLAMATION OR RIPARIAN
3 AREAS, WETLANDS, ZOO FACILITIES OR SIMILAR RECREATIONAL FACILITIES, BUT MAY
4 INCLUDE SWIMMING POOLS AND EQUIPMENT OR IMPROVEMENTS CONSTITUTING ACCESSORY
5 OR INCIDENTAL AMENITIES TO A PARK OR RECREATIONAL FACILITY ALLOWED UNDER THIS
6 SECTION.

7 (f) ANY FACILITY THAT WAS FINANCED AND THAT MEETS ALL OF THE
8 REQUIREMENTS PRESCRIBED IN SUBSECTION T OF THIS SECTION.

9 8. "QUALIFIED PROFESSIONAL" MEANS A PROFESSIONAL ENGINEER, SURVEYOR,
10 FINANCIAL ANALYST OR PLANNER PROVIDING SERVICES WITHIN THE SCOPE OF THE
11 PERSON'S LICENSE, EDUCATION OR EXPERIENCE.

12 9. "SERVICE AREA" MEANS ANY SPECIFIED AREA WITHIN THE BOUNDARIES OF A
13 COUNTY IN WHICH DEVELOPMENT WILL BE SERVED BY NECESSARY PUBLIC SERVICES OR
14 FACILITY EXPANSIONS AND WITHIN WHICH A SUBSTANTIAL NEXUS EXISTS BETWEEN THE
15 NECESSARY PUBLIC SERVICES OR FACILITY EXPANSIONS AND THE DEVELOPMENT BEING
16 SERVED AS PRESCRIBED IN THE INFRASTRUCTURE IMPROVEMENTS PLAN.

17 10. "SERVICE UNIT" MEANS A STANDARDIZED MEASURE OF CONSUMPTION, USE,
18 GENERATION OR DISCHARGE ATTRIBUTABLE TO AN INDIVIDUAL UNIT OF DEVELOPMENT
19 CALCULATED USING DATA SPECIFIC TO THE SERVICE AREA IN WHICH THE FACILITY WILL
20 BE LOCATED AND PURSUANT TO GENERALLY ACCEPTED ENGINEERING OR PLANNING
21 STANDARDS FOR A PARTICULAR CATEGORY OF NECESSARY PUBLIC SERVICES OR FACILITY
22 EXPANSIONS.

APPROVED BY THE GOVERNOR MAY 18, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House May 6, 2016,

by the following vote: 36 Ayes,

19 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 1, 2016,

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6th day of May, 2016,

at 5:56 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 18th day of

May, 2016,

at 8:30 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of May, 2016.

S.B. 1306

at 11:05 o'clock A M.

[Signature]
Secretary of State